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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,099	03/27/2001	Jan G.J. van de Winkel	MXI-170	2545

959 7590 11/20/2003

LAHIVE & COCKFIELD  
28 STATE STREET  
BOSTON, MA 02109

EXAMINER
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HELMS, LARRY RONALD

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 11/20/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/820,099

Applicant(s)

VAN DE WINKEL, JAN G.J.

Examiner

Larry R. Helms

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 6-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 1, 6--12 are pending and under examination.
2. The text of those sections of Title 35 U.S.C. code not included in this office action can be found in a prior Office Action.

### ***Response to Arguments***

3. The rejection of claims 1, 6-12 under 35 U.S.C. 103(a) as being unpatentable over Shen et al (WO 98/23646, published 6/98, IDS #4) as evidenced by Monteiro et al (J. Exp. Med 171:597-613, 1990) and the specification is maintained.

The response filed 9/4/03 has been carefully considered but is deemed not to be persuasive. The response states that "as discussed by Shen et al monomeric IgA binds to Fc $\alpha$ 1R via its constant region and to a target antigen via its variable region" (see page 4 of response). In response to this it is unclear where Shen teaches such. Shen teaches Fc $\alpha$ 1Rs are capable of interacting with monomeric IgA and inducing phagocytosis (see page 3, lines 28-30). Thus it was known that monomeric IgA would bind and induce effector functions. The response further states that Shen teaches away from using monomeric IgA (see page 4 of response). In response to this Shen does not state that monomeric IgA could not be used. The passage states that a preferred embodiment is that the binding agent is not inhibited by binding to IgA but this is in the context of an antibody as the binding agent. The response further states that there would have been motivation to substitute dimeric not monomeric IgA because the role

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of monomeric IgA was poorly understood. In response to this argument, Shen specifically teach that monomeric IgA was known to interact with receptors and cause phagocytosis, therefore, it would have been prima facie obvious to one of ordinary skill in the art at the time the claimed invention was made to have used the a complex comprising monomeric IgA linked to a second antibody (a bispecific agent) for the elimination of a target cell or antigen.

### ***Conclusion***

4. No claim is allowed.
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Larry R. Helms, Ph.D, whose telephone number is (703) 306-5879. The examiner can normally be reached on Monday through Friday from 7:00 am to 4:30 pm, with alternate Fridays off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached on (703) 308-3995. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

7. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 308-4242.

Respectfully,

Larry R. Helms Ph.D.

703-306-5879



LARRY R. HELMS, PH.D.  
PRIMARY EXAMINER